

1 MR. SCHAUBLE: Okay. Your Honor, there is a  
2 difference between an estimate and a guess.

3 MR. SHAINIS: She said she'd guess. She said, "I  
4 would guess."

5 JUDGE CHACHKIN: She said she doesn't recall.

6 MR. SCHAUBLE: Okay.

7 MR. SCHAUBLE: If you have something to refresh  
8 her recollection, use it; if not, that's the testimony.

9 BY MR. SCHAUBLE:

10 Q And could you please describe -- where did this  
11 visit take place?

12 A This visit took place at my home in Panorama City.  
13 I was at work, and my stepson came and picked me up from  
14 work and told me that there was a gentleman at FCC at our  
15 home waiting to talk to me.

16 Q Okay. And did you, in fact, meet with that  
17 individual?

18 A I did.

19 Q Okay. Do you recall the individual's name?

20 A I only recall his first name as "Benny."

21 Q Okay. Could you please describe what happened in  
22 that --

23 A When I came in, the gentleman from the FCC, Benny,  
24 introduced himself and told me the reason he was there to  
25 see me was because he had been informed that my repeater

1 station was operating illegally.

2 Q Okay. Did he inform you in what manner the  
3 station was operating illegally?

4 A He just indicated that it was operating illegally.

5 Q Did he inform you of what prompted the FCC to --

6 A He did.

7 Q -- to visit you?

8 A He did. He told me that he had a complaint from  
9 Mr. James Kay.

10 Q Okay. And did he describe the nature of the  
11 complaint from Mr. Kay?

12 A I do not recall if he went into any kind of  
13 detailing on it, no.

14 Q Okay. Now, during this time period who was, in  
15 fact, responsible for operating this station?

16 A Mr. Kay.

17 Q Okay. Now, do you recall anything else concerning  
18 the meeting with Benny from the FCC?

19 A Nothing more than he would get back to us and let  
20 us know what was going to happen or if he had any more  
21 questions.

22 Q Okay. Let me ask you this. Where were you living  
23 when this inspection took place?

24 A At 8857 Willis Avenue, Panorama City, California.

25 Q Okay. And what time period did you live there?

1           A     I only lived there about a year, but I don't know  
2 the exact time frame.

3           Q     Okay. Can you provide me with your best estimate  
4 of when you lived there?

5           A     June of '90 until August of '91, maybe.

6           Q     Now, as a result of this visit -- did you take any  
7 action as a result of this visit from the FCC?

8           A     I had additionally contacted Riley Hollingsworth.  
9 I had also sent letters to congressmen and other individuals  
10 within the Government, trying to find out about my  
11 particular license to make sure that it was no longer in my  
12 name, that I did not want to have -- I wanted them to cancel  
13 the license so that it was not active.

14          Q     Okay. And, to your knowledge, was the license  
15 ever canceled?

16          A     Not to my knowledge.

17          Q     Okay. Did you believe that this incident had any  
18 impact on your agreement with Mr. Kay?

19          A     This, yes, and other circumstances prior to this.

20          Q     Okay. First, would you please describe what  
21 impact you believe it had?

22          A     What impact --

23          Q     Let me strike the question. You made a reference  
24 to "other circumstances."

25          A     Yes.

1 Q Could you please describe what you mean by those  
2 other circumstances?

3 A Mr. Kay and my husband had a falling out.

4 Q Okay.

5 A And from that time until FCC, Mr. Benny, came to  
6 our door, they had not been on very good terms, my husband  
7 and Mr. Kay.

8 Q Okay.

9 A And I believe, in a sense, it was a retaliation  
10 measure.

11 Q Okay. What sort of relationship did your husband  
12 have with Mr. Kay?

13 JUDGE CHACKIN: Which husband are we talking  
14 about?

15 MR. SCHAUBLE: Ask the witness --

16 THE WITNESS: Mr. Pfeifer.

17 JUDGE CHACKIN: Mr. Pfeifer?

18 THE WITNESS: Yes.

19 JUDGE CHACKIN: Okay.

20 THE WITNESS: Mr. Pfeifer had also worked for Mr.  
21 Kay.

22 MR. SCHAUBLE: Okay.

23 THE WITNESS: And they had a miscommunication, and  
24 my husband no longer worked for Mr. Kay.

25 BY MR. SCHAUBLE:

1 Q Do you recall approximately the time period during  
2 which your husband worked for Mr. Kay?

3 A Not exactly. My best estimate would have been  
4 late-'89 and '90.

5 Q Okay. Now, after this visit from the FCC, did you  
6 ever take any other sort of action with respect to the  
7 license that was in your name?

8 A Yes.

9 Q Please describe that action.

10 A My husband, David Pfeifer, had contacted somebody  
11 he knew that was also in the radio communication business  
12 and had offered him my license, that I would turn over my  
13 license to him. I would sign an authorization and turn it  
14 over to him.

15 Q Okay. Do you recall the name of that individual?

16 A I believe the name of the company was A1A  
17 Repeaters.

18 Q And do you know whether your license was, in fact,  
19 ever transferred over to A1A Repeaters?

20 A I do not know.

21 Q Now, did you ever receive any revenues or money in  
22 connection with the station that was licensed in your name?

23 A No.

24 Q Did you ever receive any reports or information  
25 from Mr. Kay as to the revenues the station was generating?

1 A No.

2 Q Did you ever receive any information from Mr. Kay  
3 as to the -- strike that. Who was responsible -- was there  
4 someone who was responsible for placing customers on that  
5 station?

6 A Yes.

7 Q And who was that?

8 A Mr. James Kay.

9 Q Did Mr. Kay ever provide you with any reports  
10 concerning his efforts to place customers on his station?

11 A No.

12 JUDGE CHACHKIN: Did you ever ask Mr. Kay for such  
13 reports?

14 THE WITNESS: I occasionally asked him for updates  
15 on how full the station was.

16 JUDGE CHACHKIN: And what did Mr. Kay say on those  
17 occasions?

18 THE WITNESS: He never gave me an answer. He  
19 avoided the question.

20 BY MR. SCHAUBLE:

21 Q Were you ever given any information concerning  
22 expenses incurred with respect to the station licensing  
23 agreement?

24 A No.

25 Q Did you have any knowledge as to what happened to

1 the revenues that the station generated?

2 A None.

3 MR. SCHAUBLE: Your Honor, if I could have one  
4 minute off the record.

5 JUDGE CHACHKIN: All right. We'll go off the  
6 record.

7 (Discussion off the record.)

8 MR. SCHAUBLE: I have no further questions. Thank  
9 you, Ms. Pfeifer.

10 JUDGE CHACHKIN: Cross-examination?

11 MR. SHAINIS: Yes, Your Honor. Could we have --  
12 Your Honor, with your indulgence, could I have a half-hour  
13 to confer with Mr. Kay?

14 JUDGE CHACHKIN: Do you have any objection?

15 MR. SCHAUBLE: No objection, Your Honor.

16 JUDGE CHACHKIN: All right. I'll give you until  
17 10:30.

18 MR. SHAINIS: Thank you, Your Honor.

19 (Whereupon, at 10:02 a.m., a brief recess was  
20 taken.)

21 (10:33 a.m.)

22 JUDGE CHACHKIN: Are you ready to proceed,  
23 Counsel?

24 MR. SHAINIS: Yes, Your Honor.

25 MR. KELLER: Before we begin the cross-

1 examination, Your Honor, I have one preliminary matter. I  
2 wanted to ask counsel for the Bureau if they would stipulate  
3 that the license for Station WNHD 783 -- at least one  
4 version of that license is in WTB Exhibit Number 305 -- was,  
5 in fact, assigned from Carla Pfeifer to A1A Repeater Company  
6 and is currently held by A1A Repeater Company.

7 MR. SCHAUBLE: I cannot stipulate.

8 MR. KELLER: Very well. I'll get you appropriate  
9 documentation for an official notice to that fact.

10 JUDGE CHACHKIN: You're not aware of what the  
11 situation is?

12 MR. SCHAUBLE: Your Honor, I'm not aware as to  
13 whether it's currently in the hands of A1A Repeater Company.  
14 I cannot --

15 JUDGE CHACHKIN: Can you stipulate that an  
16 assignment application from Carla Pfeifer to A1A Repeater  
17 was, in fact, granted by the Commission?

18 MR. SCHAUBLE: I don't have the date immediately  
19 in front of me.

20 JUDGE CHACHKIN: But was it, in fact, granted by  
21 the Commission?

22 MR. SCHAUBLE: My understanding is that it was, in  
23 fact, granted.

24 JUDGE CHACHKIN: Can we stipulate to that without  
25 the date? We'll get the date later.

1 MR. SCHAUBLE: Yes.

2 MR. KELLER: I'll get more detailed information  
3 for --

4 JUDGE CHACHKIN: So the stipulation is that, in  
5 fact, it was assigned to -- what was it? -- A1 --

6 MR. SHAINIS: A1A Repeater.

7 JUDGE CHACHKIN: -- and the Commission granted the  
8 application for reassignment. We've stipulated that. Is  
9 that correct?

10 MR. SCHAUBLE: Correct.

11 JUDGE CHACHKIN: All right. Go ahead, Counsel.

12 MR. SHAINIS: And further stipulation that Mr. Kay  
13 has absolutely no interest in A1A Repeater.

14 MR. SCHAUBLE: We have no information that Mr. Kay  
15 has any interest in A1A Repeater.

16 JUDGE CHACHKIN: All right. Unless they present  
17 evidence, unless the Bureau presents evidence that Mr. Kay  
18 is involved with A1A Repeater, the record will reflect that  
19 he is not involved.

20 MR. KELLER: Very well.

21 MR. SCHAUBLE: Very well, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. SHAINIS:

24 Q Ms. Pfeifer, good morning.

25 A Good morning.

1           Q     I will try and make this as short and as painless  
2 as possible because I realize that you've been flying all  
3 night.

4           A     Yes, I have. I worked all day yesterday.

5           Q     I understand that. I'd like to go back and just  
6 explore for a bit some questions Mr. Schauble asked you  
7 concerning your relationship with Mr. Kay. I believe you  
8 testified that you became associated with him through his  
9 ownership of a citizen's band radio shop. Correct?

10          A     Correct.

11          Q     Okay. And you then became social friends in the  
12 context of -- my understanding -- to cut to the chase -- is  
13 that you did things such as you were in the same bowling  
14 league. Is that correct?

15          A     Correct.

16          Q     Okay. Could you tell me some other social things  
17 you did with Mr. Kay?

18          A     Gathered at friends' houses for holiday dinners  
19 just to chat, at birthday parties, that kind of thing.

20          Q     All right. And this was a long-term relationship  
21 that you enjoyed with Mr. Kay and your ex-husband. It  
22 started with your ex-husband. Correct?

23          A     That is correct.

24          Q     Okay. And your working for Mr. Kay was not on a  
25 regular basis. Is that correct?

1 A Very sporadic.

2 Q And you did it more out of friendship, I would  
3 assume, than for monetary remuneration.

4 A That is correct as I did not get paid for it.

5 Q Okay. All right. I'd like to talk to you now  
6 about the filing of the application in your name. Did you  
7 view this as a business opportunity?

8 A I think that's a fair statement.

9 Q I'm not trying to put words in your mouth.

10 A I think that's a fair statement.

11 Q Okay. And if the venture was successful, you  
12 would make money and Mr. Kay would make money. Is that  
13 correct?

14 A That is correct.

15 Q Okay. And without trying to pry, would it be safe  
16 to say that Mr. Kay was in a better position to finance this  
17 project than you and your then-husband?

18 A This project started to form out of the need for  
19 everyone to want to increase their own interests.

20 Q When you say "interests," you're meaning financial  
21 interests.

22 A Yes.

23 Q Let me use another word, "financial gain."

24 A Yes.

25 Q Okay.

1           A     Okay. I'm trying to think how best to answer the  
2 question directly.

3           Q     Take your time.

4           A     Why don't you repeat it?

5           Q     Well, let me rephrase it --

6           A     Yeah.

7           Q     -- because I didn't do well the first time.

8           A     Let's try that.

9           Q     Okay. And I'm not offended. The cost of going  
10 forward with the application process and if the application  
11 was granted, the subsequent construction, Mr. Kay was better  
12 able to afford those costs than you at that time. Is that  
13 correct?

14          A     That is correct. He was in the field, so he had  
15 better access to better pricing on everything that was  
16 needed.

17          Q     He also had the expertise to be of assistance in  
18 putting together the application. Is that correct?

19          A     That is correct. I had no knowledge.

20          Q     Okay. You're not a technical person, I would  
21 venture to say.

22          A     That is correct.

23          Q     Okay. And I don't mean that in a derogatory  
24 sense. I'm not a technical person either. Okay. You've  
25 stated that Mr. Kay told you that he was unable to apply.

1 Is that correct?

2 A I believe what he said was that he was unable to  
3 apply for any additional FCC licenses because he was limited  
4 to only a certain number to hold in his own right.

5 Q Now, that conversation that you had with Mr. Kay  
6 took place many years ago. Correct?

7 A It did, but we had it more than once.

8 Q Okay. Do you know for a certainty that he was  
9 unable to apply for that particular station?

10 A No, I do not.

11 Q Okay. All right. The fact that Mr. Kay paid for  
12 all expenses associated with this project; that was part of  
13 the oral understanding that you had with him -- isn't that  
14 correct? -- that he would front all the money.

15 A Yes.

16 Q Okay. So the fact that you never made any  
17 payments under the lease agreement was not inconsistent with  
18 your understanding with Mr. Kay. I mean, you signed a  
19 lease agreement, and that would be WTB Exhibit 300, I  
20 believe, if you want to refresh -- okay. Under that lease  
21 agreement you never made any payments. That was your  
22 testimony.

23 A That is correct.

24 Q But that, the failure to make those payments was  
25 not inconsistent with your understanding with Mr. Kay. The

1 payments were not expected. Correct?

2 A Correct.

3 MR. SHAINIS: Okay. Just a moment, please.

4 (Pause.)

5 BY MR. SHAINIS:

6 Q Ms. Pfeifer, if I could ask you to look at WTB  
7 Exhibit 299, and without trying to go over material that's  
8 already covered, I'll just ask one or two questions. That  
9 is your signature, isn't it?

10 A It appears to be my signature.

11 Q Thank you. And Exhibit 301, please, if you could  
12 look at that, there is -- at the very bottom of that exhibit  
13 the name "Carla Pfeifer" appears. Is that your signature?

14 A It appears to be my signature.

15 Q Okay. Thank you. Ms. Pfeifer, could you look at  
16 Exhibit 296, please? Do you see the check there?

17 A Yes.

18 Q Is that your signature on the check?

19 A Yes.

20 Q Okay. Ms. Pfeifer, I am far from an expert, but  
21 that signature on that check looks different than the other  
22 two signatures that I've just asked you to identify.

23 A Yes.

24 Q Okay. Why is that?

25 A I don't know.

1 Q You do agree that it appears to be different.

2 A Yes.

3 Q But yet all three of them are your signatures.

4 A All three of them appear to be my signature.

5 Q Okay. If you could look at WTB Exhibit 303, and  
6 if you look on that portion with your signature on it, --

7 A I see it.

8 Q -- you indicated that you did not believe that was  
9 your handwriting.

10 A That is correct.

11 Q Okay. But yet that does appear to be similar to  
12 the other signatures.

13 MR. SCHAUBLE: Objection to the characterization,  
14 Your Honor.

15 MR. CROSS: Overruled.

16 THE WITNESS: The question, please?

17 BY MR. SHAINIS:

18 Q It appears to be similar to the other signatures,  
19 with the exception of the one on the check.

20 A It appears --

21 MR. SCHAUBLE: Objection, Your Honor. I think if  
22 counsel is asking the witness to compare documents, he  
23 should direct the witness to --

24 MR. CROSS: Overruled.

25 THE WITNESS: The question again, please?

1 BY MR. SHAINIS:

2 Q This signature on Exhibit 303 appears to be  
3 similar to the other signatures that I've just asked you to  
4 look at, with the exception of the one that was on the  
5 check.

6 A They all appear to be similar.

7 Q Thank you. Without looking at the original,  
8 however, and I realize all you have is a copy, how do you  
9 know that what I've just shown you that was on Exhibit 303  
10 is not your handwriting?

11 A I know my signature.

12 JUDGE CHACHKIN: Do you remember ever seeing this  
13 document?

14 THE WITNESS: Which document, Your Honor?

15 JUDGE CHACHKIN: Let's take 306.

16 MR. SCHAUBLE: I'm sorry, Your Honor. Which  
17 exhibit number?

18 JUDGE CHACHKIN: Let me withdraw that. Go ahead,  
19 Counsel.

20 MR. SHAINIS: Thank you.

21 BY MR. SHAINIS:

22 Q You testified that there is a point in time that  
23 you had a visit from someone from the FCC whose name was  
24 Benny. Is that correct?

25 A Correct.

1 Q And did the individual show you credentials  
2 indicating that he was from the FCC?

3 A He had already introduced himself to my husband  
4 before I got home, so whether or not credentials were shown  
5 or not, I cannot say.

6 Q Do you recall if he showed you credentials?

7 A No, I do not.

8 Q Okay. And you remember, however, that he told you  
9 that the FCC had received a complaint from James A. Kay. Is  
10 that correct?

11 A That is correct.

12 Q Now at this period of time you still had a  
13 business association with Mr. Kay in the operation of that  
14 station.

15 A No.

16 Q You did not?

17 A I don't believe we did, no.

18 Q Why don't you believe you did?

19 A There had been no communication about the station  
20 in quite some time. He had also had a falling out with my  
21 husband, and the friendship ceased to exist.

22 Q Do you have any reason to know why Mr. Kay,  
23 assuming he did file a complaint, would file a complaint?  
24 Wouldn't it be against his business interests?

25 A I cannot say with 100-percent accuracy to this,

1 but I will say that when Mr. Kay and my husband -- because  
2 my husband is now deceased --

3 Q I'm sorry.

4 A -- and my husband worked for Mr. Kay, my husband  
5 was privileged to a lot of information regarding Mr. Kay's  
6 business practices, and when they parted ways for business  
7 and personal reasons, the amount of pressure that Mr. Kay  
8 put upon my home personally with phone calls and so on  
9 caused concern for us. So when the gentleman from FCC came  
10 and said he had a complaint from James Kay, we did not  
11 question it.

12 Q Okay. But you don't know for a fact that James  
13 Kay filed a complaint.

14 A I did not see any hand papers, nothing, no.

15 Q Okay. And the basis for that statement is what  
16 this person who said he was from the FCC told you.

17 A Correct.

18 Q Did he tell it to you or to your husband?

19 A To me.

20 Q Thank you. Your decision to assign the station to  
21 A1A Repeaters; was that your decision solely, or was it in  
22 conjunction with your husband?

23 A In conjunction with my husband.

24 Q Okay. And, to your knowledge, did Mr. Kay file  
25 any kind of protest relative to that application?

1 A I don't know. I have no knowledge.

2 Q And as we've stipulated, that assignment did  
3 happen.

4 A I understand it did happen.

5 Q But you were not aware of that, I assume, until  
6 today.

7 A That is correct. I was not aware of it.

8 Q Okay. Do you know who Mr. Barney Petersen is?

9 A I know the name, yes.

10 Q And who is he?

11 A He is the owner of A1A Repeater.

12 Q Okay. And did he ever advise you as to how you  
13 would be compensated once the assignment was completed?

14 A He made no exacting figures except to say when the  
15 assignment was completed, he would contact us.

16 Q Have you been contacted by Mr. Petersen?

17 A No, sir.

18 Q Okay. And when you say once the assignment was  
19 completed, he would contact you, meaning he would compensate  
20 you, I assume.

21 A I can't comment on that. I don't know.

22 Q Well, did you have any understanding when you  
23 assigned this to Mr. Petersen, were you just doing it for  
24 free?

25 A I did not directly. Whether or not my husband did

1 or not, I can't tell you. I don't know.

2 Q I see. Are you anticipating any type of  
3 compensation from Mr. Petersen?

4 MR. SCHAUBLE: Objection. Relevance.

5 JUDGE CHACKIN: Overruled.

6 THE WITNESS: No, sir.

7 BY MR. SHAINIS:

8 Q Okay. Did Mr. Petersen ever inform your husband,  
9 to the best of your knowledge, that he was unable to get the  
10 assignment granted because it had been assigned to Mr. Kay?

11 MR. SCHAUBLE: Objection. Hearsay.

12 JUDGE CHACKIN: Overruled.

13 THE WITNESS: Yes. I understood. I came home  
14 from work one day, and my husband said that he had talked to  
15 Barney Petersen, and Barney Petersen said he could not get  
16 the assignment of the license because it had been turned  
17 over to Jim Kay.

18 BY MR. SHAINIS:

19 Q All right. And you now know that that's not the  
20 case.

21 A That is correct.

22 Q Okay. Ms. Pfeifer, the documents in which you  
23 stated do not appear to be your signature; do you know who  
24 signed -- if it's not your signature, do you have any idea  
25 who signed it?

1           A     No, sir, I do not.

2           Q     Is it possible that the signatures could have been  
3 done by your late husband?

4           MR. SCHAUBLE:  Objection.  Calls for speculation.

5           JUDGE CHACHKIN:  Overruled.

6           THE WITNESS:  I doubt it seriously.  He would  
7 never consider signing my name or anybody's name.

8           JUDGE CHACHKIN:  What I'm trying to understand,  
9 there was an assignment application which, in fact, was  
10 filed.  You're saying you didn't sign that document, the  
11 assignment application.

12          THE WITNESS:  The assignment application?  Yes,  
13 sir.

14          JUDGE CHACHKIN:  Oh, you did sign the assignment  
15 application.

16          THE WITNESS:  To Barney Petersen, A1A Repeater.

17          JUDGE CHACHKIN:  So you were aware there was an  
18 assignment application.

19          THE WITNESS:  For A1A Repeating.

20          JUDGE CHACHKIN:  And what were you to receive?  
21 What information do you have about the arrangement whereby  
22 the repeater was to be assigned to Mr. Patterson --

23          THE WITNESS:  Petersen.

24          JUDGE CHACHKIN:  -- Petersen.

25          THE WITNESS:  As in compensation to me?

1 JUDGE CHACHKIN: Yes.

2 THE WITNESS: I had nothing in writing about any  
3 compensation for my license from Mr. Petersen.

4 JUDGE CHACHKIN: In other words, if there were any  
5 discussions, it was between your late husband and Mr.  
6 Petersen.

7 THE WITNESS: That is correct.

8 JUDGE CHACHKIN: And how did it come about that  
9 you signed this assignment application? Who presented it to  
10 you?

11 THE WITNESS: My husband.

12 JUDGE CHACHKIN: Your husband presented it to you.  
13 Then you signed the document -- you didn't have any  
14 discussions with Mr. Petersen prior to the assignment.

15 THE WITNESS: We had had one meeting, but there  
16 was nothing discussed monetarily or anything.

17 JUDGE CHACHKIN: Well, what was discussed at that  
18 meeting?

19 THE WITNESS: We just met him to sign the  
20 assignment paper, and I met with him on one occasion to sign  
21 the assignment paper, and that was it.

22 JUDGE CHACHKIN: So you were aware of the  
23 application, the license was to be assigned.

24 THE WITNESS: Correct.

25 JUDGE CHACHKIN: And you have no knowledge of who

1 prepared the assignment application.

2 THE WITNESS: For A1A Repeater?

3 JUDGE CHACHKIN: Yes. Not for -- no, I assume A1A  
4 Repeater prepared the assignment application.

5 THE WITNESS: Correct.

6 JUDGE CHACHKIN: But there was no part of the  
7 application that you had to prepare, as far as you know.

8 THE WITNESS: Right. I just had to sign it.

9 JUDGE CHACHKIN: And when was this?

10 THE WITNESS: In 1982.

11 JUDGE CHACHKIN: You had no discussion with your  
12 husband whether you were to receive any compensation in  
13 connection with this site?

14 THE WITNESS: No, sir, I did not. At that point  
15 in time, Your Honor, I just wanted to be completely free and  
16 clear of Mr. James Kay.

17 JUDGE CHACHKIN: I understand it, but the  
18 compensation was not coming from Mr. Kay; it was coming from  
19 Mr. Petersen.

20 THE WITNESS: But Mr. Kay was continuing to call  
21 my house, so I wanted nothing further to do with Mr. Kay.

22 JUDGE CHACHKIN: I understand that, but you had no  
23 discussions with Mr. Petersen, and you don't know if your  
24 late husband had discussions with Mr. Petersen concerning  
25 compensation.

1 THE WITNESS: Correct.

2 JUDGE CHACHKIN: All right. And let me ask, you  
3 were never advised until today, you were not aware until  
4 today, that the assignment application was actually granted  
5 and that the repeater was assigned to Mr. Petersen.

6 THE WITNESS: That is correct.

7 MR. SHAINIS: Your Honor, I would like to approach  
8 the witness for a moment.

9 JUDGE CHACHKIN: Go ahead.

10 (Pause.)

11 MR. SHAINIS: I'm going to show you a document,  
12 and it's called an "assignment of authorization." If you  
13 could just review it for just a minute.

14 THE WITNESS: Okay.

15 BY MR. SHAINIS:

16 Q Is that your signature on the document?

17 A I believe that is my signature on this document.

18 Q And what is the date after your signature?

19 A It's 10/22/90.

20 Q Okay. So does that refresh your recollection as  
21 the date that you signed it?

22 A No.

23 Q Fair enough.

24 MR. SHAINIS: Can we stipulate that the date that  
25 it was signed or the date that's on the application was

1 October 22, 1990?

2 MR. SCHAUBLE: I'm willing to stipulate that the  
3 date that appears on the application is 10/22/90.

4 BY MR. SHAINIS:

5 Q The October date of 1990; would that be after your  
6 husband left Mr. Kay's employment?

7 A It sounds reasonable.

8 Q Okay.

9 A I won't say 100 percent, --

10 Q I understand.

11 A -- but it sounds about right.

12 Q I understand.

13 MR. SHAINIS: Your Honor, I'd like to approach the  
14 witness again.

15 JUDGE CHACKIN: Go ahead.

16 (Pause.)

17 MR. SHAINIS: I'm going to show you a document  
18 that's dated October 24, 1990. It's on your letterhead, and  
19 if you could tell me -- just review the document just for a  
20 minute.

21 (Pause.)

22 BY MR. SHAINIS:

23 Q Do you recall that document?

24 A Uh-huh.

25 THE COURT: You do? You've got to speak up.

1 THE WITNESS: Yes, sir. I'm sorry. I do.

2 BY MR. SHAINIS:

3 Q And it's a letter addressed to the Federal  
4 Communications Commission. Is that correct?

5 A That is correct.

6 Q And it states that "I, Carla Pfeifer, am selling  
7 the above facility, Castro Peak, California, to A1A Repeater  
8 Company. Sincerely, Carla Pfeifer." Is that correct?

9 A Correct.

10 Q And is that your signature?

11 A Yes, sir.

12 Q And that signature, if you compare it to what is  
13 on WTB Exhibit 296, which is right here, does that look  
14 dissimilar to you to the one on the check?

15 A Yes.

16 MR. SCHAUBLE: Objection, Your Honor. Unless  
17 counsel intends to place this document in evidence, the  
18 record --

19 MR. SHAINIS: I'm asking --

20 JUDGE CHACHKIN: That's an objection. It's  
21 overruled.

22 BY MR. SHAINIS:

23 Q Does that signature look dissimilar to you?

24 A It appears to be similar, yes.

25 Q No. I said "dissimilar."

1 A Oh, dissimilar.

2 Q Yes.

3 A I'm sorry. No, it is not dissimilar.

4 Q To you it appears exactly the same as the  
5 signature on this check.

6 A It appears to be the same signature, yes.

7 Q Does it appear to be exactly the way the signature  
8 is signed on the check?

9 A No.

10 Q It does not?

11 A No.

12 Q Thank you.

13 JUDGE CHACHKIN: Are you going to introduce that  
14 in evidence? Now that you've asked questions about the  
15 signature, I think it should be in evidence.

16 MR. SHAINIS: All right. Your Honor, let me have  
17 identified as -- with leave to withdraw to make the  
18 appropriate copies --

19 JUDGE CHACHKIN: Leave is granted.

20 MR. SHAINIS: -- and I'll have it identified --  
21 it's a one-page exhibit -- as Kay Exhibit 2.

22 JUDGE CHACHKIN: Correct. All right. The  
23 document described will be marked for identification as Kay  
24 Exhibit 2. Any objection to its receipt?

25

1 (The document referred to was  
2 marked for identification as  
3 Kay Exhibit 2.)

4 MR. SCHAUBLE: No objection, Your Honor.

5 JUDGE CHACHKIN: Kay Exhibit 2 is received.

6 Permission is granted to withdraw it for the purpose of  
7 making copies. You can have the document, however, marked  
8 by the reporter.

9 MR. SHAINIS: I'm just going to write on it  
10 "Exhibit 2." Just give me a moment, Your Honor.

11 JUDGE CHACHKIN: Yes.

12 BY MR. SHAINIS:

13 Q Ms. Pfeifer, just to ask you one more question  
14 about the exhibit that's been identified as Kay Exhibit 2 --

15 MR. SHAINIS: Your Honor, that has been admitted?

16 JUDGE CHACHKIN: Yes.

17 (The document previously  
18 marked for identification as  
19 Kay Exhibit 2 was received in  
20 evidence.)

21 MR. SHAINIS: Okay. Thank you.

22 BY MR. SHAINIS:

23 Q This is a letter to the Federal Communications  
24 Commission that you signed, and it says you're selling the  
25 referenced facility to AlA Repeater. How do you sell

1 something without any kind of compensation?

2 MR. SCHAUBLE: Objection to the form of the  
3 question.

4 JUDGE CHACHKIN: Overruled.

5 THE WITNESS: I believe "selling" was perhaps an  
6 inappropriate word to use on that particular document. I  
7 can't sell something if I don't have the money if it's a  
8 monetary compensation; or if it's exchange in a barter  
9 system, I had nothing, but, still, the word was used as  
10 selling.

11 BY MR. SHAINIS:

12 Q Did you write this document?

13 A Yes.

14 MR. SHAINIS: Your Honor, the assignment  
15 application itself, well, the first part of the assignment  
16 application bearing Ms. Pfeifer's signature, I'd like that  
17 to be marked for identification as Kay Exhibit 3.

18 JUDGE CHACHKIN: The document will be so marked.

19 (The document referred to was  
20 marked for identification as  
21 Kay Exhibit 3.)

22 MR. SHAINIS: And I would like to have it admitted  
23 with leave to withdraw to submit the appropriate number of  
24 copies.

25 JUDGE CHACHKIN: Any objection?

1 MR. SCHAUBLE: No objection, Your Honor.

2 JUDGE CHACHKIN: Kay Exhibit 3 is received.

3 Permission is granted to make copies.

4 (The document previously  
5 marked for identification as  
6 Kay Exhibit 3 was received in  
7 evidence.)

8 (Pause.)

9 MR. SHAINIS: Just one moment, Your Honor.

10 (Pause.)

11 MR. SHAINIS: Your Honor, I'd like to ask Mr.  
12 Schauble a question, if I might.

13 JUDGE CHACHKIN: Go ahead.

14 MR. SHAINIS: The documents that Ms. Pfeifer has  
15 signed that have been submitted to the Commission; do you  
16 have the originals?

17 MR. SCHAUBLE: Do you mean in the exhibits here?

18 MR. SHAINIS: Yes.

19 MR. SCHAUBLE: I have not seen the actual -- I  
20 have not seen the originals. I have not seen actual  
21 originals, Your Honor. I don't --

22 JUDGE CHACHKIN: What were the copies made from?  
23 What did you put in the court reporter? The court reporter  
24 doesn't have the original?

25 MR. SCHAUBLE: Your Honor, the court reporter has

1 -- I believe what Mr. Shainis is asking is the ultimate  
2 source doc having originals signature.

3 MR. SHAINIS: Yes.

4 MR. SCHAUBLE: What the court reporter has, Your  
5 Honor, is the Xerox copy.

6 JUDGE CHACHKIN: From what? Where are the  
7 originals? What were the Xerox copies copied from?

8 MR. SCHAUBLE: A copy of the document in my --  
9 that was in my files, Your Honor.

10 JUDGE CHACHKIN: Well, where are the originals  
11 filed with the Commission?

12 MR. SCHAUBLE: Your Honor, that may be located in  
13 the Gettysburg facility, or the originals may no longer  
14 exist. I cannot state with certainty.

15 JUDGE CHACHKIN: Well, you try to find out where  
16 the originals are, and if they are, produce them.

17 MR. SCHAUBLE: We certainly have no -- if they  
18 exist and we can get our hands on them, Your Honor, we have  
19 no objection to providing them.

20 MR. SHAINIS: Your Honor, it's no disrespect to  
21 Ms. Pfeifer, but it's difficult when I look at these  
22 signatures, and I'm not an expert, all of these signatures  
23 appear to be different, slightly; and some of them, Ms.  
24 Pfeifer is saying, are her signatures and some of them are  
25 not. There are dissimilarities between all of the

1 signatures, and I realize -- I assume that maybe people can  
2 change their handwriting style slightly from document to  
3 document, but without them the inference cannot be drawn  
4 that this is not her signature without looking at the  
5 originals.

6 JUDGE CHACHKIN: In order for, obviously, an  
7 expert to review the documents, we would have to have the  
8 originals. If you're going to make some kind of point that  
9 she didn't sign these documents, although there is no  
10 evidence who signed them -- we don't know who signed them if  
11 she didn't -- the originals are really necessary to be  
12 produced under these circumstances if we are going to have a  
13 handwriting analyst examine them.

14 MR. SCHAUBLE: Your Honor, as we said, you know,  
15 if the originals exist in our files, we will search, and the  
16 witness could also be asked concerning the basis for her  
17 understanding and belief.

18 JUDGE CHACHKIN: Well, she has already testified  
19 that they are different, but apparently there is a  
20 similarity between a lot of the signatures, even those which  
21 she doesn't believe are hers.

22 All right. Any further questions? You're going  
23 to make a good-faith effort to find it. Report, certainly  
24 no later than next session, about whether you found the  
25 originals.

1 MR. SCHAUBLE: Yes, Your Honor. When I break, I'm  
2 going to talk to the people in the Gettysburg facility and  
3 ascertain a search to determine whether the originals are  
4 still in our custody.

5 JUDGE CHACHKIN: When were these copies made?

6 MR. SCHAUBLE: Your Honor, the copies that form  
7 the basis of the actual exhibits were made this year. As to  
8 when the copies from which those copies were made, I don't  
9 have personal knowledge of that.

10 JUDGE CHACHKIN: I don't understand why a copy  
11 would be made and the original not kept, if that's the case,  
12 unless you can give some explanation as to why that was  
13 done.

14 MR. SCHAUBLE: Your Honor, I can't speak  
15 specifically for these documents.

16 JUDGE CHACHKIN: Well, you find out whatever you  
17 can and give us a report.

18 MR. KELLER: Your Honor, I also just want to state  
19 that the copies appear to have been made as far back as  
20 1995. Late last week, pursuant to your earlier ruling, we  
21 were provided with copies of witness statements for the  
22 witnesses who would be appearing this week, the --  
23 statements. This is the first time we saw some of these  
24 documents.

25 The statement was dated '95, and some of these

1 documents are attachments to it. And I would note that  
2 since the statement was obviously prepared in connection  
3 with this proceeding, if the Bureau was at that time  
4 intending to raise inferences, suggestions, allegations,  
5 assertions regarding signatures, they should have taken  
6 care, even back at that time, to secure the originals.

7 I don't really ask you to say anything about that.  
8 I just want to note that for the record.

9 The second point I wanted to make is that,  
10 depending on how this comes out, we may need to seek expert  
11 forensic testimony, and we would ask that -- I just want to  
12 be clear that if we present an expert of that nature, it's  
13 not going to be subject to the January 4th prefiling  
14 deadline.

15 JUDGE CHACHKIN: I understand.

16 MR. SCHAUBLE: January 5th.

17 MR. KELLER: Is it January 5th? I'm sorry.

18 JUDGE CHACHKIN: If there is a need for an expert  
19 analysis, then certainly it will not be subject to that  
20 deadline. We will make whatever time is necessary to permit  
21 that analysis, but without the originals, I don't know how  
22 that analysis can be made.

23 MR. SCHAUBLE: Your Honor, I will also note,  
24 although I can't claim at this point that it relates to  
25 these specific documents, that I believe in 1995 in

1 Gettysburg there was a flood at that facility which  
2 destroyed a large number of documents. Several feet of  
3 water from a nearby river went flooding through the facility  
4 and destroyed a large number of documents. Now I can't say  
5 that's what happened to these originals.

6 MR. KELLER: Well, I understand that, Your Honor,  
7 but also this was 1995. This proceeding was designated in  
8 1994, and the prosecution, people responsible for the  
9 prosecution of this case were in Washington, D.C. So I  
10 understand that there could be some problems.

11 JUDGE CHACHKIN: In any event, I want you to find  
12 out whatever you can and let us know.

13 MR. SCHAUBLE: Very well, Your Honor. I will.

14 MR. SHAINIS: No further questions, Your Honor.

15 JUDGE CHACHKIN: Any redirect?

16 MR. SCHAUBLE: If I could have one moment, Your  
17 Honor.

18 JUDGE CHACHKIN: Yes.

19 (Pause.)

20 MR. SCHAUBLE: Yes. Just a couple of questions,  
21 Your Honor.

22 JUDGE CHACHKIN: Go ahead.

23 REDIRECT EXAMINATION

24 BY MR. SCHAUBLE:

25 Q Ms. Pfeifer, in response to some questions from

1 Mr. Shainis, when he pointed you to certain signatures, you  
2 indicated that, for instance, with respect to WTB Exhibit  
3 299 --

4 MR. SHAINIS: Did you say "299"?

5 MR. SCHAUBLE: 299.

6 BY MR. SCHAUBLE:

7 Q I believe you testified in response to a question  
8 from Mr. Shainis that that appeared to be your signature.  
9 Do you recall that testimony?

10 A Yes, sir.

11 Q Okay. Do you, in fact, believe that to be your  
12 signature?

13 A It's questionable in my mind. It is very similar,  
14 but it is questionable in my mind.

15 Q Okay. So when you testified that it appears to be  
16 your signature, that does not necessarily mean that you, in  
17 fact, believe it to be your signature --

18 MR. SHAINIS: Objection. Leading the witness.

19 JUDGE CHACHKIN: Sustained. She has testified as  
20 to what she could say about that particular subject.

21 MR. SCHAUBLE: Okay. No further questions, Your  
22 Honor.

23 JUDGE CHACHKIN: Do you have any further  
24 questions?

25 MR. SHAINIS: No, Your Honor.

1 JUDGE CHACHKIN: You're excused. Thank you very  
2 much.

3 (Discussion off the record.)

4 JUDGE CHACHKIN: Anything further?

5 MR. SCHAUBLE: I have nothing further, Your Honor.

6 JUDGE CHACHKIN: All right. Then we will be in  
7 recess until January 11th at 9 a.m.

8 (Whereupon, at 11:23 a.m., the hearing was  
9 adjourned, to be reconvened at 9 a.m., on Monday, January  
10 11, 1998.)

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**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: 94-147

CASE TITLE: In Re: JAMES A. KAY, JR.

HEARING DATE: December 29, 1998

LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: \_12-29-98\_

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